

ANN BAVENDER*
ANNE GOODWIN CRUMP*
VINCENT J. CURTIS, JR.
RICHARD J. ESTEVEZ
PAUL J. FELDMAN
ERIC FISHMAN
RICHARD HILDRETH
FRANK R. JAZZO
ANDREW S. KERSTING*
KATHRYN A. KLEIMAN
EUGENE M. LAWSON, JR.
HARRY C. MARTIN
J. TODD METCALF*
GEORGE PETRUTSAS
LEONARD R. RAISH
JAMES P. RILEY
KATHLEEN VICTORY
HOWARD M. WEISS
* NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH

ATTORNEYS AT LAW

11th FLOOR, 1300 NORTH 17th STREET

ROSSLYN, VIRGINIA 22209-3801

(703) 812-0400

TELECOPIER

(703) 812-0486

INTERNET

office@fhh-telcomlaw.com

BOOKET FILE COPY ORIGINAL

RECEIVED

JUL 28 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

FRANK U. FLETCHER
(1939-1985)
ROBERT L. HEALD
(1958-1983)
PAUL D.P. SPEARMAN
(1936-1982)
FRANK ROBERSON
(1936-1961)
RUSSELL ROWELL
(1948-1977)
RETIRED
EDWARD F. KENEHAN
CONSULTANT FOR INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS
SHELDON J. KRYS
U. S. AMBASSADOR (ret.)
OF COUNSEL
EDWARD A. CAINE*
WRITER'S NUMBER
(703) 812-

0471

July 28, 1997

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

Re: MM Docket No. 87-268

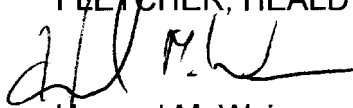
Dear Mr. Caton:

On behalf of Warwick Communications, Inc., we are filing an original and eleven (11) copies of its Reply to Opposition to Petition for Reconsideration in the above cited matter.

If there are any questions, do not hesitate to contact the undersigned.

Respectfully submitted,

FLETCHER, HEALD & HILDRETH, PLC



Howard M. Weiss

Counsel for Warwick Communications, Inc.

HMW:cej
Enclosures

No. of Copies rec'd
LIB ABCE

0211

ORIGINAL
DOCKET FILE COPY ORIGINAL
BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED

JUL 28 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Advanced Television Systems) MM Docket No. 87-268
And Their Impact Upon the)
Existing Television Broadcast)
Service)

To: The Commission

**REPLY TO OPPOSITION TO
PETITION FOR RECONSIDERATION**

Pursuant to Section 1.106 of the Commission's rules and by its counsel, Warwick Communications, Inc. ("Warwick"), licensee of Television Station KFXK-TV, Longview, Texas, hereby replies to the Opposition To Petition For Reconsideration filed by Fox Television Stations ("Fox") on July 18, 1997. At page 5 of that pleading, Fox asserts on behalf of its Station KRIV, Houston, Texas (Channel 26), that Warwick's petition for reconsideration to assign DTV Channel 26 instead of adjacent Channel 52 to KFXK should be denied. Warwick disagrees. In support hereof, Warwick states as follows:

1. Fox offers no engineering statement or quantitative analysis in support of its objection. Instead, it offers only its "concerns," based on "preliminary analysis," that a Channel 25 assignment would interfere with KRIV's NTSC operations, "particularly in light of the relatively, flat terrain in southeastern Texas." Fox also challenges KFXK's argument that the channel assigned to KFXK by the Sixth Report and Order is outside the "core" television band, and would therefore require KFXK to move twice if that core

concept becomes final.

2. Attached hereto is the Engineering Statement of Joseph M. Davis of Cavell, Mertz & Perryman, Inc., who avers that, based upon detailed analysis of DTV allotments, NTSC assignments, and interference factors in the Longview area, a KFXK Channel 26 DTV facility will not cause any interference to KRIV. In contrast to Fox's conclusory, unsubstantiated objection, Mr. Davis notes that, in reaching his conclusion, he utilized NTIA's computer program. He therefore applied the principles underlying the Office of Engineering and Technology Bulletin 69, issued July 2, 1997, and the Longley-Price methodology relied upon therein. Mr. Davis further points out that, in view of the separation at issue here -- in excess of 300 kilometers -- the new DTV rules permit the proposed assignment without reference to interference factors.

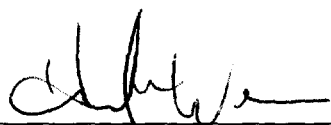
3. As to Fox's point regarding the core band, Mr. Davis argues that Fox's focus on KFXK's NTSC Channel 51 is misplaced. It is KFXK's proposed DTV channel - - 52 -- which is outside the core. That is true whether the Commission ultimately decides to use a Channel 2-46 core or a Channel 7-51 core. There is thus no doubt but that Warwick's assignment is outside the core and adjacent to Warwick's NTSC Channel 51. This assignment will unnecessarily risk adjacent channel interference between Warwick's NTSC and DTV channels and require an expensive second channel switch at a later date for a small market station which can ill afford such dislocation.

4. In the face of such inexorable logic and detailed engineering analysis, Fox's "throw-away" objection, backed by no engineering, should be summarily rejected. There is no valid basis to reject Warwick's reasonable proposal to substitute DTV

Channel 26 and the Commission should therefore adopt it.

Respectfully submitted,

WARWICK COMMUNICATIONS, INC.

By: 
Howard M. Weiss

Its Attorney

FLETCHER, HEALD & HILDRETH, PLC
1300 North 17th Street
11th Floor
Rosslyn, Virginia 22209
(703) 812-0400

Date: July 28, 1997

cej/hmw/cejoverflow#1/warwick.plead

ENGINEERING STATEMENT

prepared for

Warwick Communications, Inc.

KFXK (TV) Longview, Texas

This engineering statement has been prepared on behalf of *Warwick Communications, Inc.* ("*Warwick*"), in support of a *Response to Opposition to Petition for Reconsideration* of the Federal Communications Commission's Sixth Report and Order ("6th R&O") in MM Docket 87-268.¹ *Warwick* is the licensee of television station KFXK, Longview, Texas. *Warwick's Petition for Reconsideration* requested channel 26 as an alternate digital television ("DTV") channel allotment for KFXK. *Fox Television Stations Inc.* ("*Fox*") has filed an opposition to *Warwick's* petition.

Discussion

In its opposition, *Fox* suggests that interference may be caused to *Fox's* KRIV (TV), analog channel 26, Houston, Texas by *Warwick's* use of DTV channel 26 at Longview. *Fox* cites a "preliminary analysis" that "raises some concerns about interference ... particularly in light of the relatively flat terrain in southeastern Texas," but offers no supporting engineering analysis.

As stated in the *Petition for Reconsideration*, *Warwick's* proposed use of DTV channel 26 was based on a detailed engineering review of the DTV allotments and NTSC assignments in the region surrounding Longview. Interference studies were performed using an application of the Longley-Rice methodology, similar to that employed by the Commission in developing the DTV table of allotments.² The Longley-Rice methodology takes actual terrain into account when predicting signal levels.

¹See FCC 97-115 *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, released April 21, 1997.

²The time-shared "HDTV" computer program offered by the National Telecommunications and Information Administration's *TA Services* in Boulder, Colorado was employed as the method for coverage and interference prediction. The HDTV computer program has been developed in close coordination with the Commission's OET staff, and utilizes similar methodology as the computer program used by the Commission to develop the DTV table of allotments. Predictions included "clipping" the extent of protected coverage as specified under §73.623(c)(2) at the Grade B contour distance for analog stations per §73.684 and at the DTV coverage contour distance for DTV assignments per §73.625(b). It is believed that the HDTV program offered by *TA Services* is compliant with the FCC's Office of Science and Technology Bulletin 69 *Longley-Rice Methodology for Evaluating TV Coverage and Interference* ("OET-69"), July 2, 1997.

ENGINEERING STATEMENT

(page 2 of 3)

The interference study examined the potential impact the use of DTV channel 26 at Longview would have on other DTV allotments and existing NTSC assignments, including KRIV. The results of this study showed that no interference is predicted to be caused to KRIV, to any other NTSC assignment, or to any DTV allotment through the proposed use of DTV channel 26 at Longview, TX. Thus, the interference concerns raised by *Fox* in its "preliminary analysis" prove unfounded when interference studies are performed, which were not supplied by *Fox*.

Further, KRIV is located 302.2 kilometers from KFXK. Inasmuch as Section 73.623(d) requires a minimum separation distance of 244.6 kilometers between UHF co-channel DTV to analog channel assignments (Zones II and III), a new (future) DTV station on channel 26 could be allotted at KFXK's transmitter site without regard to interference caused to KRIV.

Fox also implies that *Warwick's* assertion that its DTV channel assignment at Longview may not be outside the "core" and therefore may not have to change channels. *Fox* correctly states that channel 51 may be included in the final "core", which will consist of channels 2-46 or 7-51. Channel 51, however, is KFXK's existing NTSC (analog) channel. It is DTV channel 52, which is outside the core in either case, that was assigned to KFXK. Thus, KFXK will, in fact, be required to change its DTV facility to another channel if operation were to commence on channel 52.

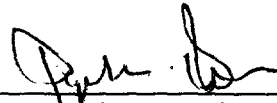
Following the transition period, KFXK could use its existing NTSC channel 51 as its DTV channel, provided that the core spectrum ultimately selected includes channel 51. A change in KFXK's DTV facility from channel 52 to 51 would involve the purchase and installation of various transmitter and filter components and will likely involve antenna modifications or replacement. The cost of a channel change may easily exceed \$100,000. The expense and logistics of such a change could be avoided from the outset if KFXK's DTV assignment were changed to channel 26, which would not require any channel change at the conclusion of the transition period.

ENGINEERING STATEMENT

(page 3 of 3)

Certification

The undersigned hereby certifies that the foregoing statement was prepared by him or under his direction, and that it is true and correct to the best of his knowledge and belief. Mr. Davis is a principal in the firm of *Cavell, Mertz & Perryman, Inc.*, is a Registered Professional Engineer in Virginia, holds a Bachelor of Science degree from Old Dominion University in Electrical Engineering Technology, and has submitted numerous engineering exhibits to various local governmental authorities and the Federal Communications Commission. His qualifications are a matter of record with that agency.



Joseph M. Davis, P.E.

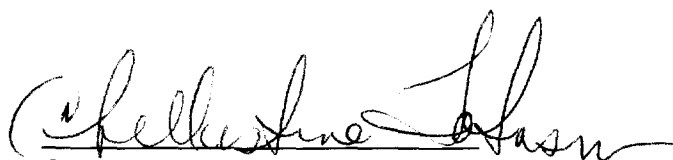
July 24, 1997

Cavell, Mertz & Perryman, Inc.
10300 Eaton Place
Suite 200
Fairfax, VA 22030
(703) 591-0110

CERTIFICATE OF SERVICE

I, Chellestine Johnson, a secretary in the law firm of Fletcher, Healed & Hildreth, P.L.C., hereby certify that a true copy of the foregoing "Reply to Opposition to Petition for Reconsideration" was served via United States First Class Mail, prepaid, this 28th day of July, 1997 to:

Molly Pauker, Esquire
Fox Television Stations, Inc.
5151 Wisconsin Avenue, N.W.
Washington, D.C. 20016


Chellestine Johnson